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10/580,579	02/16/2007	Heinz Heissler	2003P01285WOUS	5640

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BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

EXAMINER

BIRBACH, NAOMI L

ART UNIT	PAPER NUMBER
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1714

NOTIFICATION DATE	DELIVERY MODE
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06/09/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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NBN-IntelProp@bshg.com

Office Action Summary	Application No. 10/580,579	Applicant(s) HESSLER ET AL.	
	Examiner NAOMI BIRBACH	Art Unit 1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2009 and 11 March 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Response to Amendment

1. Claims 11-37 are pending. Applicant's amendments in the response filed October 22, 2009 are acknowledged.
2. The objections to the Abstract and Specification are withdrawn in view of Applicant's amendments. The 35 U.S.C. 112, 2nd Paragraph rejections are withdrawn in view of Applicant's amendments.
3. The rejections of claims 11-14 and 16-20 under 35 U.S.C. 102(b) over JP 01-141642 to Asai have been withdrawn.

Election/Restrictions

4. Applicant's arguments filed March 11, 2010 regarding the species election requirement are persuasive. Therefore, the requirement has been withdrawn. Claims 11-37 are examined on the merits.

Claim Objections

5. Claims 16, 25 and 33 are objected to because of the following informalities: Claims 16, 25 and 33 recite "at least one of a cleaning rinsing and a clear rinsing process..." Commas are necessary. Appropriate correction is required.
6. Claim 25 is objected to because of the following informalities: Claim 25 recites "detecting the humidity-of" in line 8 of the claim. The dash should be deleted. Claim 25 also recites "controlling the drying process with a non-electronic controller a function of the

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humidity” instead of “controlling the drying process with a non-electronic controller *as* a function of the humidity.” Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 11-20, 22 and 26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Specifically, claims 11, 16 and 26 recite “controlling the heater *solely* as a function of the detected humidity” or the like, which represents new matter. Negative limitations which do not appear in the specification as originally filed, and which introduce new concepts violate the description requirement of 35 USC 112, first paragraph, *Ex parte Grasselli*, 231 USPQ 393 (Bd. App. 1983).

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 22 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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11. Claim 22 recites “wherein the system for drying the objects to be washed is switchable to an off position in a selected one of an independent manner and a non-independent manner as a function of the humidity...” However, Claim 21 recites a non-electronic controller. It is unclear how the system is switchable to an off position in a non-independent manner if the system has a non-electronic controller, rendering this claim indefinite. The specification recites that “the operator *independently* adjusts or ends the drying process as a result of the indicated humidity value” in the non-electronically controlled apparatus (Page 3, Paragraph [010]).

12. Claim 30 recites “wherein the system for drying the objects to be washed includes a selected one of an electronic controller and a non-electronic controller.” However, Claim 29 recites that the system is switchable to an off position in an independent manner. It is unclear how the system includes an electronic controller if it is switchable to an off position in an independent manner, rendering this claim indefinite. The specification recites that “the operator *independently* adjusts or ends the drying process as a result of the indicated humidity value” in the non-electronically controlled apparatus (Page 3, Paragraph [010]).

Claim Rejections - 35 USC § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 11-24 and 29-32 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 2515420 B to Okamoto et al. (Machine Translation).

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15. As to claim 11, Okamoto discloses a dishwasher comprising a washing container to retain therein objects to be washed by the dishwasher (Page 4; Figure 1). The dishwasher also contains a system to dry objects to be washed, the system including a heater (Ref. #17) to heat at least part of the air present in the dishwasher (Page 5; Figure 1) and a humidity sensor (Ref. #50) to detect the humidity of at least part of the air present in the dishwasher (Page 5; Figure 1). The heater is fully capable is being controllable solely as a function of the detected humidity (Page 3, [Function]; Pages 7-8).

16. As to claim 12, Okamoto further discloses a microcomputer (Ref. #48), which is an electronic controller means, for controlling the drying system as a function of detected humidity (Pages 5-6; Figure 1).

17. As to claim 13, Okamoto further discloses that the system is automatically switched off a drying operation stop means controlled by the microcomputer as a function of the humidity determined by the humidity sensor, which is a non-independent manner (Pages 6 and 8).

18. As to claims 14 and 15, Okamoto further discloses that the humidity sensor (Ref. #50) is arranged in an upper area of the washing container of the dishwasher (Figure 1; Page 5).

19. As to claim 16, Okamoto discloses a method for cleaning and drying objects to be washed in dishwashers. The method comprises subjecting the objects to be washed to cleaning and rinsing processes followed by a drying process, where at least some of the air present in the dishwasher is heated by a heater (Pages 5-6; Figure 1). The humidity of at least some of the air in the dishwasher is detected by a humidity sensor (Ref. #50) during the drying process (Page 3, [Function], Pages 6, 8). Okamoto discloses that the heater is controlled solely as a function of the

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detected humidity; since Okamoto teaches that the heater is stopper once the humidity value reaches a selected dry degree (Page 3, [Function]; Pages 7-8).

20. As to claims 17 and 18, Okamoto further discloses that the drying process is controlled as a function of the humidity determined by the humidity sensor by means of a microcomputer, which is an electronic controller, such that the drying process is ended as a function of the determined humidity (Page 6).

21. As to claims 19 and 20, Okamoto further discloses that the operation of the heater is controlled as a function of the humidity determined by the humidity sensor such that the heater is turned off as a function of the humidity determined (Page 3, [Function] and Page 8). The heater is connected to and controlled by a microcomputer (Ref. #48), which is an electronic controller (Page 6).

22. As to claims 21 and 22, Okamoto discloses a dishwasher comprising a washing container to retain therein objects to be washed by the dishwasher (Page 4; Figure 1). The dishwasher also contains a system to dry objects to be washed, the system including a heater (Ref. #17) to heat at least part of the air present in the dishwasher (Page 5; Figure 1) and a humidity sensor (Ref. #50) to detect the humidity of at least part of the air present in the dishwasher (Page 5; Figure 1).

Okamoto discloses a control box with an off (halt) switch, as well as display means (Pages 5-6), which comprise the non-electronic controller as described by applicant's specification, so the system is fully capable of being switchable to an off position in an independent manner by a user as a function of the humidity determined by the humidity sensor.

23. As to claims 23 and 24, Okamoto further discloses that the humidity sensor (Ref. #50) is arranged in an upper area of the washing container of the dishwasher (Figure 1; Page 5).

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24. As to claim 29, Okamoto discloses a dishwasher comprising a washing container to retain therein objects to be washed by the dishwasher (Page 4; Figure 1). The dishwasher also contains a system to dry objects to be washed, the system including a heater (Ref. #17) to heat at least part of the air present in the dishwasher (Page 5; Figure 1) and a humidity sensor (Ref. #50) to detect the humidity of at least part of the air present in the dishwasher (Page 5; Figure 1). Okamoto discloses a control box with an off (halt) switch, as well as display means (Pages 5-6), so the system is fully capable of being switchable to an off position in an independent manner by a user as a function of the humidity determined by the humidity sensor.

25. As to claim 30, Okamoto further discloses a microcomputer (Ref. #48), which is an electronic controller means, for controlling the drying system as a function of detected humidity determined by the humidity sensor (Pages 5-6; Figure 1).

26. As to claims 31 and 32, Okamoto further discloses that the humidity sensor (Ref. #50) is arranged in an upper area of the washing container of the dishwasher (Figure 1; Page 5).

Claim Rejections - 35 USC § 103

27. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

28. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

29. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

30. Claims 25-28 and 33-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2515420 B to Okamoto et al. (Machine Translation).

31. As to claims 25 and 27, Okamoto discloses a method for cleaning and drying objects to be washed in dishwashers. The method comprises subjecting the objects to be washed to cleaning and rinsing processes followed by a drying process, where at least some of the air present in the dishwasher is heated by a heater (Pages 5-6; Figure 1). The humidity of at least some of the air in the dishwasher is detected by a humidity sensor (Ref. #50) during the drying process (Page 3, [Function], Pages 6, 8). Okamoto discloses that the drying process and operation of the heater is controlled as a function of the detected humidity (Page 3, [Function]; Pages 6-8). Okamoto discloses a control box with an off (halt) switch, as well as display means (Pages 5-6), which comprise the non-electronic controller as described by Applicant's specification. While Okamoto does not expressly disclose controlling the drying process with a

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non-electronic controller, manual operation of dishwashers is known. So, it would have been obvious to one of ordinary skill in the art at the time of the invention to control the drying process and heater by a user using the off switch for the benefit of increased control over the termination of the drying process.

32. As to claims 26 and 28, Okamoto further discloses that the drying process and operation of the heating process is ended solely as a function of the determined humidity, since Okamoto teaches that the heater is stopper once the humidity value reaches a selected dry degree (Page 3, [Function]; Pages 7-8).

33. As to claim 33, Okamoto discloses a method for cleaning and drying objects to be washed in dishwashers. The method comprises subjecting the objects to be washed to cleaning and rinsing processes followed by a drying process, where at least some of the air present in the dishwasher is heated by a heater (Pages 5-6; Figure 1). The humidity of at least some of the air in the dishwasher is detected by a humidity sensor (Ref. #50) during the drying process (Page 3, [Function], Pages 6, 8). Okamoto discloses that the drying process and operation of the heater is controlled as a function of the detected humidity (Page 3, [Function]; Pages 6-8). Okamoto discloses a control box with an off (halt) switch, as well as display means (Pages 5-6). Okamoto does not expressly disclose that the system is controlled in an independent manner as a function of the detected humidity. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to control the system in an independent manner such that a user controls and ends the drying process by switching off the operation in response to a detected and displayed humidity for the benefit of increased control over the drying operation and since manual operation of a dishwasher is well known.

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34. As to claims 34 and 36, Okamoto further discloses a microcomputer (Ref. #48), which is an electronic controller means, for controlling the drying system and heater as a function of detected humidity (Pages 5-6; Figure 1).

35. As to claims 35 and 37, Okamoto further discloses that the drying process and operation of the heater process is ended as a function of the determined humidity (Pages 6-8).

Response to Arguments

36. Applicant's arguments filed October 22, 2009 have been fully considered but they are not persuasive.

37. Regarding the rejections of claims 11-20 under 35 U.S.C. 102(b) over JP 2515420B to Okamoto, Applicant argues that Okamoto does not teach or suggest "the heater being controllable solely as a function of the determined humidity" because Okamoto teaches that the drying process is carried out as a function of humidity as well as time. Examiner respectfully disagrees with Applicant's characterization of Okamoto. Okamoto teaches that the heater is stopped once the humidity value reaches a dry degree preselected by a user (Page 3, [Function]; Pages 7-8), which is a heater controllable solely as a function of the determined humidity. Okamoto teaches that that moisture curve is calculated only in the case where a user does not preselect a desired dryness (Page 3, [Function]; Pages 9-10, [Effect of Invention]).

38. Regarding newly added claims 21-37, the Examiner holds that Okamoto teaches the limitations of these claims as presented above.

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Conclusion

39. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

40. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

41. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NAOMI BIRBACH whose telephone number is (571)270-7367. The examiner can normally be reached on Monday-Friday, 8:00am-5:30pm.

42. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Kornakov can be reached on 571-272-1303. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

43. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/N. B./

Naomi Birbach

Examiner, Art Unit 1714

/Barbara L. Gilliam/

Supervisory Patent Examiner, Art Unit 1710